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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,775	03/20/2001	Frederic DeSavage	GENENT.057CP2	2421

7590

09/12/2003

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EXAMINER

KAM, CHIH MIN

ART UNIT

PAPER NUMBER

1653

DATE MAILED: 09/12/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/813,775

Applicant(s)

DESAUVAGE ET AL.

Examiner

Chih-Min Kam

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16,22-24,30,40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 16,22-24,30,40 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Status of the Claims***

1. Claims 16, 22-24, 30, 40 and 41 are pending.

Applicants' amendment filed on June 27, 2003 (Paper No. 18) is acknowledged, and applicants' response has been fully considered. Claims 16, 22, 30, 40 and 41 have been amended, and claims 17-21 and 34-39 have been cancelled. Therefore, claims 16, 22-24, 30, 40 and 41, and SEQ ID NOs: 2, 18 and 34 are examined.

**Objection Withdrawn**

2. The previous objection of claims 20 and 34-41, is withdrawn in view of applicants' cancellation of the claim, applicants' amendment to the claim and applicants' response at page 3 in Paper No. 18.

**Rejection Withdrawn**

***Claim Rejections - 35 USC § 112***

3. The previous rejection of claim 19, under 35 U.S.C. 112, first paragraph, is withdrawn in view of applicants' cancellation of the claim and applicants' response at page 3 in Paper No. 18.
4. The previous rejection of claims 16-24, 30 and 34-41, under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicants' cancellation of the claim, applicants' amendment to the claim and applicants' response at pages 3-4 in Paper No. 18.

***Claim Rejections - 35 USC § 102& 103***

5. The previous rejection of claims 16, 20 and 21, under 35 U.S.C. 102(b) as being anticipated by Elliott *et al.* (WO 95/05465), is withdrawn in view of applicants' cancellation of

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the claim, applicants' amendment to the claim and applicants' response at page 4 in Paper No. 18.

6. The previous rejection of claims 16, 20 and 21, under 35 U.S.C. 103(a) as being anticipated by Hyttinen *et al.* (U. S. Patent 5,959,171), is withdrawn in view of applicants' amendment to the claim and applicants' response at page 4 in Paper No. 18.

### ***Informalities***

7. The disclosure is objected to because of the following informalities:

Table 1, which cites the computer source code for the ALIGN-2 program (page 12, second paragraph) and has over 300 lines (pages 19-40), must be submitted on a compact disc in compliance with 37 C. F. R. 1.52(e), see 37 C. F. R. 1.96(c). A compact disc containing such a computer program listing is to be referred to as a "computer program listing appendix." The "computer program listing appendix" will not be part of the printed patent. The specification must include a reference to the "computer program listing appendix" at the location indicated in 37 C. F. R. 1.77(b)(4).

Appropriate correction is required.

### ***Claim Objections***

8. Claims 16, 22-24, 40 and 41 are objected to because of the recitation of the term "the sequence of amino acid residues from 1 or 28 to 193 of Figure 2 (SEQ ID NO:2)". Deletion of "Figure 2" is suggested.

9. Claim 30 is objected to because the claim contains recitation of non-elected inventions, e.g., an agonist or antagonist of CHEPO polypeptide of (a), and an antibody which specifically binds a polypeptide of (a).

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***Conclusion***

10. Claims 16, 22-24, 30, 40 and 41 are objected to.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (703) 308-9437. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, Ph. D. can be reached on (703) 308-2923. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-0294 for regular communications and (703) 308-4227 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

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Chih-Min Kam, Ph. D. *CMK*  
Patent Examiner

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September 9, 2003

*Christopher S. Low*

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